

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF OWENSBORO CELLULAR TELEPHONE	)	
COMPANY, L.P. FOR A CERTIFICATE OF PUBLIC	)	
CONVENIENCE AND NECESSITY TO CONSTRUCT A	)	CASE NO.
CELL SITE OFF KELLY CEMETERY ROAD, NEAR MACEO,	)	96-609
FIVE MILES EAST OF OWENSBORO IN DAVIESS COUNTY,	)	
KENTUCKY (LEWISPORT SITE)	)	

O R D E R

On December 30, 1996, Owensboro Cellular Telephone Company, L.P. ("Owensboro Cellular") filed an application seeking a Certificate of Public Convenience and Necessity to build and operate a cellular radio telecommunications facility for the Owensboro Metropolitan Statistical Area ("the Owensboro MSA"). The Owensboro MSA includes Daviess and Henderson counties. Owensboro Cellular has requested authorization to construct a cell site in Daviess County. Owensboro Cellular was previously granted authority to operate a cellular radio telecommunications system in the Owensboro MSA in Case No. 93-179.<sup>1</sup>

The proposed cell site consists of a 180-foot or less self-supporting antenna tower to be located north of U.S. 60 and east of KY 334, northeast of Maceo and five miles east

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<sup>1</sup> Case No. 93-179, The Joint Application of United States Cellular Operating Company of Owensboro and Owensboro Cellular Telephone, L.P. for Approval of the Transfer of the Jurisdictional Assets of United States Cellular Operating Company of Owensboro to Owensboro Cellular Telephone, L.P., the Admission of Certain Limited Partners to Owensboro Cellular Telephone, L.P., and for Approval of Financing.

of Owensboro in Daviess County, Kentucky ("the Lewisport cell site"). The coordinates for the Lewisport cell site are North Latitude 37° 53' 34" by West Longitude 86° 57' 54".

Owensboro Cellular has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the Lewisport cell site. Based upon the application, the design of the tower and foundation conforms to applicable nationally recognized building standards, and the plans have been certified by a Registered Professional Engineer.

Pursuant to KRS 100.324(1), the Lewisport cell site's construction is exempt from local zoning ordinances; however, Owensboro Cellular notified the Daviess County Area Planning Commission of the pending construction. Owensboro Cellular has filed applications with the Federal Aviation Administration ("FAA") and the Kentucky Airport Zoning Commission ("KAZC") seeking approval for the construction and operation of the Lewisport cell site. Both applications are pending.

Owensboro Cellular has filed notices verifying that each person who owns property or who resides within 500 feet of the Lewisport cell site has been notified of the pending construction. The notice solicited any comments and informed the property owners or residents of their right to intervene. In addition, notice was posted in a visible location on the proposed site for at least two weeks after Owensboro Cellular's application was filed. To date, no intervention requests have been received.

Pursuant to KRS 278.280, the Commission is required to determine proper practices to be observed when it finds, upon complaint or on its own motion, that the facilities of any utility subject to its jurisdiction are unreasonable, unsafe, improper, or insufficient. To assist the Commission in its efforts to comply with this mandate, Owensboro Cellular

should notify the Commission if it does not use this antenna tower to provide cellular radio telecommunications services in the manner set out in its application and this Order. Upon receipt of such notice, the Commission may, on its own motion, institute proceedings to consider the proper practices, including removal of the unused antenna tower, which should be observed by Owensboro Cellular.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that Owensboro Cellular should be granted a Certificate of Public Convenience and Necessity to construct and operate the Lewisport cell site in the Owensboro MSA under its previously approved tariff.

IT IS THEREFORE ORDERED that:

1. Owensboro Cellular is granted a Certificate of Public Convenience and Necessity to construct and operate the Lewisport cell site.
2. Owensboro Cellular shall file a copy of the final decisions regarding the pending FAA and KAZC applications for this cell site construction within 10 days of receiving these decisions.
3. Owensboro Cellular shall immediately notify the Commission in writing, if, after the antenna tower is built and utility service is commenced, the tower is not used for a period of 3 months in the manner authorized by this Order.

Done at Frankfort, Kentucky, this 24th day of February, 1997.

PUBLIC SERVICE COMMISSION

Linda K. Brantlett  
Chairman

Edw. J. H. H. H.  
Vice Chairman

B. J. Helton  
Commissioner

ATTEST:

Don Mills  
Executive Director